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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 GABRIEL ALLEN ECKARD,

9 Plaintiff,

10 v.

11 DANIEL STITES,

12 Defendant.

Case No. C19-738-RSM-MLP

ORDER DENYING PLAINTIFF’S
MOTION FOR APPOINTMENT OF
COUNSEL

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14 Plaintiff brings this civil rights action under 42 U.S.C. § 1983 alleging a violation of his
15 Fourteenth Amendment rights. Plaintiff is proceeding with this action *pro se* and *in forma*
16 *pauperis*. The present matter comes before the Court on Plaintiff’s motion for appointment of
17 counsel. (Dkt. # 20.) Defendant opposes Plaintiff’s motion. (Dkt. # 21.) After careful
18 consideration of the motion, the governing law, and the balance of the record, the Court finds
19 that the complexity of the legal issues present in this case and Plaintiff’s ability to articulate his
20 claims do not constitute exceptional circumstances to justify the appointment of counsel.
21 Plaintiff’s motion for appointment of counsel (dkt. # 20) therefore is DENIED.

22 Generally, a person has no right to counsel in a civil action. *See Campbell v. Burt*, 141
23 F.3d 927, 931 (9th Cir. 1998). In certain “exceptional circumstances,” the Court may request the

1 voluntary assistance of counsel for indigent civil litigants under 28 U.S.C. § 1915(e)(1).
2 *Agyeman v. Corrections Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). When determining
3 whether “exceptional circumstances” exist, the Court considers “the likelihood of success on the
4 merits as well as the ability of the [plaintiff] to articulate his claims pro se in light of the
5 complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).
6 Neither factor is dispositive, and they must be viewed together before reaching a decision on a
7 request for counsel. *Id.*

8 The Court concludes Plaintiff has not shown a likelihood of success on the merits. In
9 addition, Plaintiff appears able to articulate his claims *pro se* given that the legal issues are not
10 particularly complex. Indeed, the single claim against one defendant raised in Plaintiff’s action –
11 a violation of his Fourteenth Amendment rights by being temporarily placed in an observation
12 unit – is straightforward in terms of both the law and the facts. To the extent Plaintiff claims
13 difficulties developing the factual record and conducting discovery, those issues are not unique
14 to him. If such difficulties were sufficient to establish “exceptional circumstances,” nearly every
15 *pro se* prisoner would be entitled to pro bono counsel. *See Wilborn v. Escalderon*, 789 F.2d
16 1328, 1331 (9th Cir. 1986) (“Most actions require development of further facts during litigation
17 and a pro se litigant will seldom be in a position to investigate easily the facts necessary to
18 support the case. If all that was required to establish successfully the complexity of the relevant
19 issues was a demonstration of the need for development of further facts, practically all cases
20 would involve complex legal issues [warranting appointment of counsel].”). Furthermore, the
21 discovery deadline in this matter has passed and there are several pending dispositive motions.

22 Plaintiff alleges in his motion that he is being “utterly deprived” of the use of the law
23 library and has therefore not been able to conduct research. (Dkt. # 20 at 1.) Despite this

1 allegation, Plaintiff has managed to file an opposition to Defendant's amended motion for
2 judgment on the pleadings, a motion for summary judgment, and the current motion for
3 appointment of counsel which includes a motion to deny Defendant's cross-motion for summary
4 judgment. A review of the Court's docket also shows that Plaintiff has been actively filing
5 various pleadings in his other matters. *See, e.g., Eckard v. Kane, et al.*, C19-882-JCC-MAT,
6 *Eckard v. Langdon, et al.*, C19-579-JCC-MAT, *Eckard v. Lee*, C19-429-RAJ-MLP, *Eckard v.*
7 *Thomas, et al.*, C19-104-RSM. Accordingly, the Court concludes that appointment of counsel is
8 not appropriate at this time. Plaintiff will be free to move for appointment of counsel, if
9 necessary, at a later date.

10 The Clerk is directed to send a copy of this Order to plaintiff and to the Honorable
11 Ricardo S. Martinez.

12 Dated this 13th day of December, 2019.

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15 MICHELLE L. PETERSON
16 United States Magistrate Judge
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